IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (PIL) NO. 93 OF 2006

Desmond Anthony D'Souza ...Petitioner

Versus

The State of Maharashtra and ors. ... Respondents

Petitioner in person.

Mr. Shekhar Ingle, Assistant Government Pleader, for respondent Nos. 1 and 2.

Mr. J. Reis, instructed by Mr. Rajesh N. Kachare, for respondent No.3.

CORAM: **H.S. BEDI, C.J.,** &
V.M. KANADE, J.

DATE: **NOVEMBER 23, 2006**.

P.C.

This petition, in public interest, has been filed is a clear example of a blatant misuse of this procedure. The petitioner appearing in person is an Indian national and residing in Bandra, Mumbai. As per the facts given in the petition, two nuns had been murdered way back in 1990 but the matter had not been properly investigated with the result that the assailants could not be identified

and thus not brought to trial. The petitioner stated that on 3rd March, 2006, he wrote a letter to Cardinal Ivan Dias, respondent No.3, requesting information on the status of these murders. When he received no reply, he made further enquiries and was told that he should wait some more time for the information but no information has so far been received. The petitioner has accordingly pointed out that the murders which were committed on 14th November, 1990, had led to a lot of resentment within the Catholic community in Mumbai. It has further been pleaded that in the year 1995 or 1996, a catholic Priest Fr. Serejo had been murdered by his cook and a huge amount of foreign currency which the Priest had with him had disappeared and no trace whatsoever had been found of the currency thereafter which too required a fresh look. It has further been pleaded that a Priest Dr. Deniz Pereira who was presently the Head Priest at the Holy Family Church at Peston Sagar, Chembur, Mumbai, had kept two girls, Lalita and Preeti Kavita with him and that these two girls had disappeared and despite information conveyed by the petitioner to the police in writing on several occasions, it had transpired that only one girl Kavita could be located whereas there was no trace of the other. The petitioner has accordingly prayed as under:

"(1) The Public Prosecutor, Home Department, the State of

Maharashtra to furnish records of these murders;

(2) The Commissioner of Police Mumbai to furnish details as per their records of these murders;

(3) The present Cardinal Ivan Dias the head of the catholic church in Mumbai and to the previous head Cardinal Simon Pimenta to submit a status report of these murders as per their records as it is a matter of serious concern if the image of the church is safeguarded at the alter of Truth & Justice;

(4) The priest Deniz Pereira to inform this Court how and from whom he obtained the custody of these girls and their present status and whereabouts;

(5) Such other orders and relief or ad interim relief as this Court may deem fit and be pleased to issue in this connection under Article 226 of the Constitution of India.

(6) That the costs of this petition be provided for."

2. Replies have been filed on behalf of the respondents. In the reply filed by Rajendra Laxman Kulkar, Inspector of Police, on behalf of respondent Nos. 1 and 2, it has been pleaded that the petitioner was the brother-in-law of Deniz Pereira and that a family dispute involving them was on going with the result that this litigation had been filed with the intention to cause embarassment to him as the said Priest was not involved in any misconduct. It has also been pleaded that the murder of the two nuns had been properly investigated but the assailants could not be identified. We are informed that in so far as the murder of

Father Serejo was concerned, the assailant had been brought to trial and had been convicted for life and is presently undergoing sentence.

3. At the outset, we find that very serious allegations have been levelled against Deniz Pereira and that he has not been made a party to this proceeding. This fact is conceded by the petitioner also. It is also conceded that Deniz Pereira is the brother-in-law of the petitioner. The entire matter would have to be examined in the background of this fact and in the light of the affidavit filed on behalf of respondent No.1. We observe that the two nuns were murdered in 1990, and Father Serejo in 1995 or 1996. This petition has been filed in the year 2006. We also find that the reliefs mentioned in prayer clauses 1 to 3 cannot be granted to the petitioner under any circumstances. As far as prayer clause 4 is concerned, Deniz Pereira, against whom scurrilous allegations have been levelled has not been made a party and the petitioner has a serious dispute with him. We are also of the opinion that a public interest litigation, for the kind of reliefs which the petitioner seeks is not available and could at best be available to a person who would be personally interested in such matter. We are, therefore, of the opinion that this petition, which is in the garb of a PIL, is intended to ventilate some ulterior motive. We accordingly dismiss

the petition with costs of Rs. 25,000/-.

CHIEF JUSTICE

V.M. KANADE, J.